

REMARKS

New claims 5-19 are pending in this case for consideration. Previous claims 1-4 have been canceled, without prejudice, to expedite prosecution. Support for new claims 5-18 can be found, among other places, in Figures 1, 3, 5-7 as well as paragraphs [0021] - [0026], [0033]-[0034] and [0040] of Applicants' specification.

A. Prior Art Rejections

1. The Invention

Applicants have invented an improved system for managing a wireless service in which a wireless device user can use their wireless device to communicate directly with an automated interactive response system, such as an automated interactive voice (IVR) response system, residing on a service provider server to have his/her wireless device unbarred/activated, have an internally stored credit amount increased and/or have a tariff table updated. Once proper approval has been obtained, the service provider server can send a data bearer communication service message, such as a short message service (SMS) message, to the wireless device that is then used by the wireless device to, for example, implement a credit amount increase and/or tariff table update.

2. The Cited Art Distinguished

Applicants' previous claims 1 and 4 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Rodriguez "all publications." Since U.S. Patent No. 5,983,091 ("Rodriguez '091 patent") appears to be one of the cited Rodriguez publications referred to by the Examiner, the prior art rejection will be addressed in the context of the Rodriguez '091 patent. Claim 3 has been rejected under 35 U.S.C. § 103(a) as being obvious over the Rodriguez '091 patent in view of the purported knowledge in the art of short message service communications as illustrated by Larkins' U.S. Patent No. 6,295,291 ("Larkins patent").

The Rodriguez '091 patent discloses a portable communication unit having predetermined blocks of "home" and "roaming" airtime. In the preferred embodiment, additional blocks of airtime can be activated by having the user manually enter a specific code supplied by

a dealer into the portable communication unit keypad. See, Abstract. Alternatively, the user can contact a dealer when the initial airtime is exhausted about adding another block of airtime over the air (Rodriquez '091 patent, col. 14, lns. 29-55). When the dealer is satisfied that the user has sufficient credit for the additional block of airtime, the dealer will notify the portable communication carrier to transmit an activation signal when the portable communication unit attempts to register with the portable communication carrier station or at any time the portable communication unit is engaged in a communication session with the portable communication carrier station. *Id.*

The Larkins patent discloses use of an internet website to program certain customer preferences, such as call waiting, conference calling, call transfer, short message service etc., into a radiotelephone. After the user types in his/her preferences at the service provider website and the user's creditworthiness is approved, the user is instructed to power up his/her radiotelephone (see, Larkins patent, col. 4, lns. 42-45). The user's radiotelephone then transmits a temporary directory number which the service provider's computers can use to download the user's preferences into the radiotelephone (see, Larkins patent, col. 4, ln. 46 - col. 5, ln. 2).

Applicants' invention differs significantly from both the Rodriquez '091 patent and the Larkins patent. For example, neither the Rodriquez '091 patent nor the Larkins patent disclose an interactive response system that can be contacted by the user's wireless device to increase an internally stored credit amount or unbar/activate the wireless device. To increase a block of airtime in the Rodriquez '091 system, the user must locate a dealer to either give him/her a code which can be manually typed into the portable communication unit keypad or otherwise have the dealer arrange for a code to be communicated to the portable communication unit. In Applicants' system, there is no need to locate a dealer. A user of Applicants' system can simply use a number preprogrammed into his/her wireless device to communicate directly with the service provider's interactive response system using his/her wireless device for activation or an increase in credit amount.

Similarly, in the Larkins' patent, the radiotelephone user must find a computer and use that computer to log onto the system provider's website. Of course, if the radiotelephone


user has not yet bought a computer or signed up their computer with an internet service provider (ISP), they are out of luck in the Larkins system (see, Larkins patent, col. 2, lns. 30-36). By contrast, in Applicants' system, the user only needs to have possession of the wireless device itself to perform an activation and/or credit amount increase for that same wireless device. Moreover, unlike Applicants' invention, Applicants find no disclosure in the Larkins patent of a credit amount which is internally stored on the user's wireless device. For these reasons, neither the Rodriguez '091 patent nor the Larkins patent, either by themselves or combined together, would render any of Applicants' pending claims unpatentable.

Finally, Applicants' previous claims 1-4 have been rejected on the ground of non-statutory, obviousness-type double patenting over Applicants' earlier U.S. Patent Nos. 6,625,439 and 6,480,710. The Examiner has indicated that a timely filed terminal disclaimer in compliance with 37 CFR §§ 1.321(c) or 1.321(d) may be used to overcome this obviousness-type double patenting rejection. While Applicants do not agree that the present claims are obvious in view of the issued claims in Applicants' earlier U.S. Patent Nos. 6,625,439 and 6,480,710, Applicants are nonetheless submitting a terminal disclaimer with this Amendment to moot the obviousness double patenting rejection.

CONCLUSION

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (415) 576-0200.

Respectfully submitted,



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